

108TH CONGRESS
2D SESSION

H. R. 4260

To provide for the reduction of mercury in the environment.

IN THE HOUSE OF REPRESENTATIVES

MAY 4, 2004

Ms. BALDWIN (for herself, Mr. BURTON of Indiana, and Ms. LEE) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To provide for the reduction of mercury in the environment.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Safe Communities and
5 Safe Schools Mercury Reduction Act of 2004”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds the following:

8 (1) Mercury is a naturally occurring element
9 and bioaccumulative toxin that is easily absorbed
10 through skin and respiratory and gastrointestinal
11 tissues.

1 (2) Although mercury is naturally occurring,
2 studies have shown that its concentration has in-
3 creased dramatically over the past 150 to 200 years
4 due to mining and industrial activities.

5 (3) Common sources of mercury released into
6 the environment include breakage of mercury-con-
7 taining products like fluorescent bulbs and thermom-
8 eters, the manufacturing of mercury-containing
9 products, and incineration of mercury-containing
10 products.

11 (4) According to recent studies, mercury depos-
12 its are a significant public health threat in many
13 States throughout the United States.

14 (5) Fetuses, infants, and young children are at
15 the greatest risk from chronic low level mercury ex-
16 posure.

17 (6) A study by the Centers for Disease Control
18 and Prevention found that approximately 8 percent
19 of women of childbearing age in the United States
20 had mercury levels exceeding the level considered
21 safe by the Environmental Protection Agency for
22 protecting the fetus. This translates into approxi-
23 mately 60,000 babies born each year in the United
24 States at risk of developmental harm due to mercury
25 exposure in the womb.

1 (7) A study published in the Journal of Obstet-
2 rics and Gynecology found that elevated mercury ex-
3 posures associated with seafood could be linked to
4 an increased risk of infertility in both men and
5 women.

6 (8) Mercury pollution is widespread. As of early
7 2003, 43 States had issued mercury fish consump-
8 tion advisories for one or more freshwater or marine
9 fish.

10 (9) Mercury is the most common pollutant trig-
11 gering fish consumption advisories in the United
12 States. The number of mercury advisories has in-
13 creased 138 percent from 1994 to 2002. In 2002,
14 mercury advisories covered 12,000,000 lake acres
15 and 470,000 river miles.

16 (10) According to the Mercury Study Report,
17 prepared by the Environmental Protection Agency
18 and submitted to Congress in 1997, mercury fever
19 thermometers contribute approximately 17 tons of
20 mercury to solid waste each year.

21 (11) Numerous mercury spills have been docu-
22 mented in schools, often causing thousands of dol-
23 lars to clean up. A mercury spill in Washington,
24 D.C., in September of 2003 cost over \$1,000,000 to

1 clean up and resulted in a temporary school closure
2 of several weeks.

3 (12) Mercury-containing thermostats generally
4 contain 3 grams of mercury, which is enough mer-
5 cury to poison a 60 acre lake for one year.

6 **SEC. 3. GRANT PROGRAM.**

7 (a) ESTABLISHMENT.—The Administrator of the En-
8 vironmental Protection Agency (in this Act referred to as
9 the “Administrator”) shall establish a program for making
10 renewable grants to governmental and nonprofit agencies
11 and organizations, and to for-profit entities, for projects
12 to—

13 (1) reduce harmful free-flowing elemental mer-
14 cury and mercury-added products from the environ-
15 ment;

16 (2) safely dispose of or recycle harmful mer-
17 cury;

18 (3) educate communities and citizens about the
19 harmful effects of mercury;

20 (4) develop and carry out a plan, in accordance
21 with guidance provided by the Administrator under
22 section 5, on how to eliminate free flowing mercury
23 and instruments containing mercury from the prem-
24 ises of K–12 public and private schools; or

1 (5) carry out a mercury thermometer exchange
2 program.

3 (b) PROCEDURES AND SELECTION CRITERIA.—The
4 Administrator shall establish procedures for the selection
5 of grant recipients under this section, including require-
6 ments that appropriate records and information be made
7 available to the Administrator as necessary to ensure that
8 grant funds are used for the purposes for which they are
9 provided. Criteria for selection shall include—

- 10 (1) strengths and weaknesses of the project;
- 11 (2) adequacy of overall project design;
- 12 (3) competency of proposed staff;
- 13 (4) suitability of applicant's available resources;
- 14 (5) appropriateness of the proposed project du-
15 ration and budget; and
- 16 (6) probability that the project will accomplish
17 stated objectives.

18 (c) RECYCLING PROGRAMS.—Funds provided
19 through a grant provided under this section may be used
20 for a recycling program only if more than 50 percent of
21 the total material recycled under the program is mercury.

22 (d) ADMINISTRATIVE EXPENSES.—Not more than 10
23 percent of the amount appropriated for a fiscal year under
24 subsection (e)(1) may be used by the Administrator for
25 the administrative expenses of carrying out this section.

1 (e) AUTHORIZATION OF APPROPRIATIONS.—

2 (1) IN GENERAL.—There are authorized to be
3 appropriated to the Administrator for carrying out
4 this section \$75,000,000 for each of the fiscal years
5 2005 through 2008.

6 (2) SET ASIDE.—For each of the first 3 fiscal
7 years for which funds are provided under paragraph
8 (1), at least 40 percent of the amounts made avail-
9 able shall be reserved for projects described in sub-
10 section (a)(4) or (5), unless a sufficient number of
11 qualified applications has not been received.

12 **SEC. 4. SALE OF THERMOMETERS; THERMOSTAT REPLACE-**
13 **MENT AND RECYCLING.**

14 (a) IN GENERAL.—Subtitle C of the Solid Waste Dis-
15 posal Act (42 U.S.C. 6921 et seq.) is amended by adding
16 at the end the following:

17 **“SEC. 3024. MERCURY.**

18 “(a) SALE OF THERMOMETERS.—Effective beginning
19 180 days after the date of enactment of this section—

20 “(1) a person shall not sell or supply a mercury
21 fever thermometer to a consumer, except by pre-
22 scription; and

23 “(2) with each mercury fever thermometer sold
24 or supplied by prescription, the manufacturer of the
25 thermometer shall provide clear instructions on—

1 “(A) careful handling of the thermometer
2 to avoid breakage; and

3 “(B) proper cleanup of the thermometer
4 and its contents in the event of breakage.

5 “(b) THERMOSTAT REPLACEMENT.—Effective begin-
6 ning 2 years after the date of enactment of this section—

7 “(1) a contractor who replaces a building ther-
8 mostat in a residential or commercial building shall
9 dispose of the replaced thermostat through a recy-
10 cling program established or participated in under
11 paragraph (2); and

12 “(2) each manufacturer of building thermostats
13 for installation in a residential or commercial build-
14 ing shall—

15 “(A) establish or participate in a program
16 for the safe and environmentally responsible re-
17 cycling of thermostats replaced by the manufac-
18 turer’s thermostats; and

19 “(B) establish or participate in a program
20 to clearly educate individuals who sell or install
21 the manufacturer’s thermostats about the pro-
22 gram established under subparagraph (A).”.

23 (b) CONFORMING AMENDMENT.—Section 1001 of the
24 Solid Waste Disposal Act (42 U.S.C. prec. 6901) is

1 amended by adding at the end of the items relating to
2 subtitle C the following:

“Sec. 3024. Mercury.”.

3 **SEC. 5. SCHOOL PREMISES GUIDANCE.**

4 Not later than 1 year after the date of enactment
5 of this Act, the Administrator shall publish guidance to
6 assist State and local governments to remove elemental
7 free-flowing mercury and mercury-added instruments
8 from the premises of public and private schools. Thermo-
9 stats, computers, and motorized vehicles shall not be con-
10 sidered instruments for the purposes of this section.

11 **SEC. 6. ANNUAL REPORT.**

12 Not later than 1 year after the date of enactment
13 of this Act, and annually thereafter, the Administrator,
14 after obtaining necessary information from appropriate
15 State agencies, shall transmit to the Congress a report on
16 the progress made under this Act. Such report shall in-
17 clude—

18 (1) an executive summary;

19 (2) a brief description of the background of this
20 Act;

21 (3) a State-by-State progress summary of mer-
22 cury reduction efforts relating to this Act, including
23 a quantitative analysis of the amount of mercury
24 eliminated, recycled, or disposed of in each State,

1 and an identification of the method or program re-
2 sponsible;

3 (4) a description of grants and amounts award-
4 ed under section 3, and of the criteria used for
5 awarding those grants;

6 (5) a summary of a few selected mercury reduc-
7 tion programs that received grants, with a descrip-
8 tion of the success or problems each program had;

9 (6) a detailed financial reporting of total ad-
10 ministration costs of carrying out this Act;

11 (7) a joint summary, by the Administrator and
12 appropriate State officials, that describes the coordi-
13 nation and communication progress and problems
14 between the Federal and State Governments in car-
15 rying out this Act; and

16 (8) recommendations for greater efficiency or
17 improvement of administration of this Act.

18 **SEC. 7. MERCURY AMALGAM REDUCTION.**

19 Not later than 3 years after the date of enactment
20 of this Act, the Administrator shall issue regulations re-
21 quiring dentists to install a device that captures 90 per-
22 cent or more of mercury-laden amalgam on every chair
23 or office structure in which mercury amalgam is adminis-
24 tered to their patients. The Administrator may provide for
25 waivers from the requirements of this section for struc-

- 1 tural obstacle or significant financial economic harm rea-
- 2 sons.

